

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SUNTRUST BANK,

Plaintiff,

v.

Case No. 08-C-982

M/Y LATTE DAH, (Official No. 1174782),
her boats, tackle, apparel, furniture, engines
and appurtenances, *in rem*

and

DAVID K. MOSER and TRACY L. MOSER,
in personam

Defendants.

**FINAL JUDGMENT IN REM AND ORDER
DIRECTING JUDICIAL SALE OF VESSEL**

AND NOW, upon review of plaintiff SunTrust Bank's Motion for Default Judgment *in rem* against the Motor Yacht LATTE DAH (Official No. 1174782), her boats, tackle, apparel, furniture, engines and appurtenances (collectively the "Vessel") and for an order directing the judicial sale of the Vessel; the applicable notice requirements of 46 U.S.C. § 31325(d)(1), Supplemental Admiralty Rule C(4), and Civil L.R. 100.7 having been met; and there being no just reason for delay, the plaintiff's motion is **GRANTED**.

IT IS ORDERED that Final Judgment is entered against the Vessel *in rem* according to the following priority: *First*, in favor of SunTrust Bank in the amount of \$1,024,920.31, which amount shall and does constitute a first preferred mortgage lien against the Vessel, and *Second*, in favor of

Citizens Bank in the amount of \$514,867.82 which amount shall and does constitute a second preferred mortgage lien against the Vessel.

IT IS FURTHER ORDERED that the U.S. Marshal for this District is hereby authorized and directed to sell the Vessel as soon as practicable to the highest bidder at public auction, “as is, where is,” free and clear of all liens, claims and encumbrances whatsoever.

IT IS FURTHER ORDERED that notice of the sale shall be published twice in the Milwaukee Journal Sentinel, the first publication to occur at least 7 calendar days prior to the date of the sale and the second at least 3 calendar days prior to the date of sale.

IT IS FURTHER ORDERED that the terms of the sale shall be as follows:

- (a) The sale shall be to the highest bidder, “as is, where is,” free and clear of all liens, claims and encumbrances whatsoever;
- (b) Except as otherwise provided herein, the successful bidder shall pay to the U.S. Marshal at the time of sale a deposit of at least \$100,000.00 or ten percent of the bid, whichever is greater, by certified or cashier’s check;
- (c) Except as otherwise provided herein, the successful bidder shall pay the balance of the purchase price by delivery of a certified or cashier’s check to the U.S. Marshal within thirty-six (36) hours following the sale;
- (d) Except as otherwise provided herein, if the balance of the purchase price is not paid by the successful bidder within the time required, the deposit shall be forfeited by the bidder and paid into the Registry of the Court to be applied first toward unpaid *custodia legis* expenses, if any, and then toward the Final Judgment according to the priority set forth above;
- (e) Notwithstanding the foregoing paragraphs (b) through (d), SunTrust Bank or its assigns shall have the right to bid at the sale and if SunTrust Bank is the successful bidder it may offset the amount of its Final Judgment (\$1,024,920.31) against its purchase price and shall not be required to make a deposit at the time of sale or pay the purchase price to the extent that its successful bid is equal to or less than \$1,024,920.31, but in that event SunTrust Bank shall be required to satisfy *custodia legis* expenses and the fees, commission, and expenses due to the Marshal pursuant to statute, to the extent such amounts remain unpaid when the sale is confirmed.

IT IS FURTHER ORDERED that the sale shall be deemed automatically confirmed if the successful bidder has performed the terms of sale in all respects and no written objection to the sale has been filed within three (3) business days after the sale, computed in accordance with Fed. R. Civ. P. 6(a).

IT IS ALSO ORDERED that once the sale of the Vessel is confirmed, the U.S. Marshal shall deliver a Bill of Sale to the confirmed purchaser and the Vessel shall be conveyed to the purchaser by the U.S. Marshal “as is, where is,” free and clear of all liens, claims, and encumbrances whatsoever.

Dated this 21st day of April, 2009.

s/ William C. Griesbach
William C. Griesbach
United States District Judge

Judgment entered this 21st day of April, 2009.

JON W. SANFILIPPO
Clerk of Court

BY: s/ Mary Fisher
Deputy Clerk